THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 11324 OF 1998

Date: 20.06.2007

Between:

Andhra Pradesh Cooperative Urban and Town Banks' Employees Association (Regd.) B. 1379, rep., by its Unit Secretary, I.A. Sudarsana Rao, Vizianagaram.

... Petitioner

and

Commissioner of Labour, Vizianagaram and three others.

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Respondents.

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WRIT PETITION NO. 11324 OF 1998

ORDER:

The A.P. Co-operative Urban and Town Banks' Employees Association seeks a mandamus from this Court to declare the action of the 4th respondent bank in not paying dearness allowance to its members, basing on the All India Consumer Price Index, as arbitrary and illegal.

It is the case of the petitioner, which claims to be a registered association, that the 4th respondent bank passed a resolution dated 25.03.1998 abruptly stopping payment of dearness allowance, based on All India Consumer Price Index, to its employees. The petitioners would also contend that as there is an agreement to pay the dearness allowance, which binds the 4th respondent payment cannot be withheld. No such agreement which requires the 4th respondent to pay dearness allowance, on the basis of the All India Price Index, is available on record. In the absence of the contents of such agreement being brought to the Court's notice, the petitioner's contention, that a benefit extended by virtue of an agreement would continue to have force even after the expiration of the agreement till it is replaced by a fresh agreement, does not necessitate adjudication in the present writ proceedings. Section 116(C)(1) of the A.P. Cooperative Societies Act, as amended by Act 22 of 2001 with effect from 25.04.2001, reads thus:

"A society shall have power to fix the staffing pattern, qualifications, pay scales and other allowances for its employees with the prior approval of the Registrar of Cooperative Societies subject to the condition that expenditure towards pay and allowances of the employees shall not exceed

two percent of the working capital or thirty percent of the Gross profit, in terms of actuals in a year whichever is less."

It is clear therefrom that the 4th respondent is empowered to fix the pay scales and other allowances to its employees with prior approval of the Registrar of Cooperative Societies subject to the condition that the expenditure towards pay and allowances of the employees shall not exceed two percent of the working capital or thirty percent of the Gross profit, in terms of actuals in a year whichever is less.

There is no material on record to show whether these requirements, as stipulated under Section 116(C), are satisfied. In any event I see no justification in examining the question as to whether dearness allowance should be paid to the employees of the 4th respondent bank at the instance of the petitioner, an association of A.P. Co-operative Urban Bank Employees. The A.P. Cooperative Societies Act provides an effective and efficacious alternate remedy for adjudication of any grievance in this regard at the instance of the individual employees concerned. Leaving it open to the individual employees, who are affected by the action of the 4th respondent in discontinuing payment of dearness allowance on the basis of the All India Consumer Price Index, to avail such other remedies as are available to them in law, the writ petition fails and is accordingly dismissed. However, in the circumstances, without costs.

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Date: 20.06.2007 RAMESH RANGANATHAN, J

MRKR